



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,768	07/31/2003	Dale Robert Reimer	H310830US	8464

28079 7590 07/12/2004

GOWLING, LAFLEUR HENDERSON LLP
SUITE 560, 120 KING STREET WEST
PO BOX 1045, LCD 1
HAMILTON, ON L8N 3R4
CANADA

EXAMINER

LEV, BRUCE ALLEN

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/630,768	Applicant(s) REIMER, DALE ROBERT	
	Examiner Bruce A. Lev	Art Unit 3634	<i>NW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

BRUCE A. LEV
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: **(36)**. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **(54), as in Figure 4**. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by

Art Unit: 3634

the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claims 1, 2, 6, and 7, there is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, the preamble clearly indicates that the subcombination of "support assemblies" is being claimed with the functional recitation of the "support assemblies" being used "for a horizontally extending member". However, the body of the claim positively recites the "horizontally extending member", e.g., "the legs diverging from...the horizontally extending member" (claims 1 and 2); and "a hinge which connects adjacent ends of the two horizontally extending members" (claims 6 and 7), which indicates the claims as being drawn to a combination of the "support assemblies" and the "horizontally extending member". Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the "support assemblies" alone or in combination with the "horizontally extending member", and to present the claims with the language which is consistent with the invention. The applicant should note that "*adapted to be*" language may be appropriate if claiming the "support assemblies" alone (i.e., "adapted to be secured to").

Art Unit: 3634

As concerns claims 6 and 7, since the horizontally extending members are not positively set forth previously, the hinge and/or the in-line connector is not positively set forth as being "attached" to a claimed member, and in effect, is "floating in space".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, and 5, rejected under 35 U.S.C. 102(b) as being anticipated by

Roberts 1,841,676.

Roberts sets forth a support assembly including a pair of support devices each having adjustable legs 10 with the upper end carrying a retainer (inclusive of members 11), and securing means (inclusive of nut and bolt members 14) securing the legs together and adapted to secure the legs to a horizontally extending member 5 in a configuration that is diverging downwardly and laterally/longitudinally from the horizontally extending member. The applicant should note that since the horizontally extending member is not positively set forth within the claims, comparisons thereto are not considered as having patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over

McQuiston 5,305,850 in view of McGillis et al 2003/0159886.

McQuiston sets forth a support assembly including a pair of support devices 16 each having legs with the upper end carrying a retainer, and securing means (inclusive of nut and bolt members 26) securing the legs together and adapted to secure the legs to a horizontally extending member 14 in a configuration that is diverging downwardly from the horizontally extending member. ***What McQuiston does not set forth*** is the legs also diverging laterally/longitudinally. However, ***McGillis et al*** teach the use of legs 18 diverging downwardly and laterally/longitudinally within a support assembly. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support assembly of McQuiston by also diverging the legs in the lateral/longitudinal direction, as taught by McGillis et al, in order to increase the stability of the support assembly. The applicant should note that since the horizontally extending member is not positively set forth within the claims, comparisons thereto are not considered as having patentable weight.

Art Unit: 3634

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McQuiston in view of McGillis et al further in view of Cooke 5,954,156.**

McQuiston in view of McGillis et al set forth the support assembly, as advanced above, except for the length of the legs being adjustable. However, **Cooke** teaches the use of adjustable legs within a support assembly. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support assembly of McQuiston in view of McGillis et al by forming the legs as being adjustable in length, as taught by Cooke, in order to provide means to adjust the height of the support assembly.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McQuiston in view of McGillis et al further in view of Bremer 293,847.**

McQuiston in view of McGillis et al set forth the support assembly, as advanced above, except for the second support assembly, and wherein the support assemblies are connected by a hinge. However, as concerns the second support assembly, the examiner takes the position that it would have merely been a **duplication of parts** to provide additional support assemblies in order to increase the length of the support. As concerns the hinge, **Bremer** teaches the use of hinges (inclusive of member E) between support assemblies. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support assembly of McQuiston in view of McGillis et al by connecting multiple

support assemblies via a hinge, as taught by Ernest, in order to adjustably increase the effective support area of the support assembly.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McQuiston in view of McGillis et al further in view of Ernest 565,338.**

McQuiston in view of McGillis et al set forth the support assembly, as advanced above, except for the second support assembly, and wherein the support assemblies are connected by an in-line connector. However, as concerns the second support assembly, the examiner takes the position that it would have merely been a **duplication of parts** to provide additional support assemblies in order to increase the length of the support. As concerns the in-line connector, **Ernest** teaches the use of an in-line connector (inclusive of member C) between support assemblies. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support assembly of McQuiston in view of McGillis et al by connecting multiple support assemblies via an in-line connector, as taught by Ernest, in order to adjustably increase the effective support length of the support assembly.

Conclusion

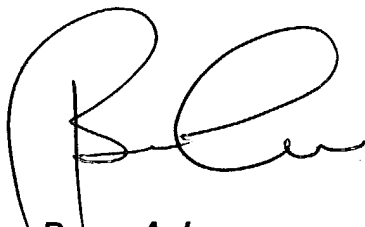
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Application/Control Number: 10/630,768
Art Unit: 3634

Page 8

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

July 1, 2004

A handwritten signature in black ink, appearing to read 'Bruce A. Lev'. The signature is stylized with a large, looping 'B' and a cursive 'Lev'.

Bruce A. Lev
Primary Examiner
Group 3600